

TITLE: Workplace Harassment and Discrimination Policy

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Approved By:

**Board of
Governors**

**Executive
Committee**

Senate

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1. PURPOSE

This Policy outlines how the Sheridan College Institute of Technology and Advanced Learning (“Sheridan”) will:

- foster and maintain a work environment that is free from Workplace Harassment and Discrimination; and,
- will clarify the rights and responsibilities of Sheridan Employees in addressing Workplace Harassment and Discrimination, when it occurs, in a fair, reasonable, and timely manner.

2. SCOPE

This Policy applies to all Sheridan Employees and it addresses Workplace Harassment and Discrimination from all sources such as students, Employees and Sheridan Community Members.

This Policy extends to situations that arise out of employment that occur at the workplace or any place where work is being performed. This policy also applies while work is being done off-campus, during or outside working hours, and at Sheridan-sanctioned events.

This policy is distinct from Sheridan’s *Sexual Assault and Sexual Violence Policy*.

Nothing in this *Policy* is intended to detract from the rights and duties of Supervisors to manage and direct the workforce and, if necessary, to discipline Employees in accordance with applicable legislation, collective agreements, or Sheridan policies and procedures.

3. DEFINITIONS

Balance of Probabilities: standard of proof used in employment and human rights law to establish whether Workplace Harassment and/or discrimination has occurred. It is the determination of whether it is more likely than not that the allegations occurred.

Community Member: Board of Governors members, contractors, providers of service or research, visitors, guests, students and applicants for admission or employment. Employees are not included in the definition of Community Members for the purpose of this *Policy* and related *Procedure*.

Complainant: the Employee who makes a Complaint to Sheridan, pursuant to this *Policy* and related *Procedure*.

Complaint: a written allegation of behaviour, or of a systemic barrier, that is believed by the Complainant to contravene the *Workplace Harassment and Discrimination Policy*.

Discrimination: any intentional or unintentional act, conduct, standard or policy which creates a distinction between certain individuals or groups based on one or more of the prohibited grounds as defined in the *Human Rights Code* (the *Code*) and results in negative, adverse or differential treatment, which may include imposing extra burdens or denying benefits. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices, or procedures that appear neutral, but have the effect of disadvantaging certain groups of people. It may be obvious, or it may occur in very subtle ways.¹ Reasonable Action taken by a Supervisor is not harassment or discrimination

Note: The Prohibited Grounds of the Code are listed below.

Employees: means a person under the employ of Sheridan either:

- a) On a full-time, ongoing basis either under the terms of the Academic Employees Collective Agreement, the Support Staff Collective Agreement, or the Terms and Conditions for Administrative Employees;
- b) On a less than full-time, and/or temporary basis under the terms of an employment agreement;
- c) On a cooperative or work-term placement educational training program; and/or
- d) On a volunteer basis.

¹ Ontario Human Rights Commission, <http://www.ohrc.on.ca/en/internal-human-rights-policy-working-draft/appendix-definitions>

Frivolous: Without importance or lacking in substance, factual basis, or proper seriousness.

Incident: behaviour or a situation of potential Workplace Harassment or Discrimination of which Sheridan or a Supervisor becomes aware in any way other than a direct, written Complaint.

Investigation: the steps taken that are appropriate in the circumstance to determine whether the Complaint or Incident reported has, on the Balance of Probabilities, occurred.

Parties to a Complaint: the Complainant and Respondent identified in the written complaint.

Poisoned Environment: when one or a series of vexatious comments or behaviours are of a significant nature or degree, create an offensive or intimidating learning or work climate for individuals or groups. An individual does not have to be directly involved to be adversely affected by a Poisoned Environment.

Preliminary Assessment: the process whereby it is determined whether a Complaint falls within the scope of this *Policy*. This may include, but is not limited to, reviewing documentation, and informal interviews with the Parties to a Complaint.

Prohibited Grounds: grounds on which a person has a right to freedom from Harassment and Discrimination in employment according to the *Code*, including:

- Age
- Ancestry
- Citizenship
- Colour
- Creed (including religion, Indigenous practice, spiritual belief)
- Disability
- Ethnic origin
- Family status (including parent-child relationship, elder care)
- Gender expression
- Gender identity
- Marital status (includes same-sex partnership, cohabitation, widowhood, separation and divorce)
- Place of origin
- Race

- Record of offences
- Sex (including pregnancy, breast feeding)
- Sexual orientation
- Other grounds protected by the *Code* or applicable legislation.

Note: for the purposes of this Policy, harassment related to sex, sexual orientation, gender identity, and gender expression fall under the definition of Workplace Harassment generally, and Workplace Sexual and/or Gender-Based Harassment specifically.

Reasonable Action: any justifiable action taken by a Supervisor relating to the management and/or direction of a worker or the place of employment. Reasonable Action taken by a Supervisor is not Harassment or Discrimination.

Reprisal: any act of retaliation or threat of retaliation for making a good faith report of Workplace Harassment or Discrimination or participating in the Complaint resolution process (including being a witness) under this *Policy*.

Respondent: the person(s) against whom a Complaint has been made, pursuant to this *Policy* and related *Procedure*.

Supervisor: a person(s) who has charge of a Workplace or authority over a worker.²

Vexatious: Without reasonable or probable cause or excuse.

Workplace: any land, premises, location or thing at, upon, in or near which a worker works.³ Sheridan-sanctioned events are also considered the Workplace.

Workplace Harassment: a course of vexatious comment or conduct against a worker in a Workplace that is known or ought reasonably to be known to be unwelcome. Single acts of sufficient severity may constitute harassment. Workplace Harassment includes but is not limited to Workplace Sexual and Gender-Based Harassment.⁴

Workplace Sexual and Gender-Based Harassment:

- a) engaging in a course of vexatious comment or conduct against a worker in a Workplace because of sex, sexual orientation, gender identity or gender

² Occupational Health and Safety Act (R.S.O. 1990, c. 0.1; Section 1[1])

³ Occupational Health and Safety Act (R.S.O. 1990, c. 0.1; Section 1[1])

⁴ Occupational Health and Safety Act (R.S.O. 1990, c. 0.1; Section 1[1])

expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

- b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome⁵

Note: Sexual assault and sexual violence are explicitly covered by Sheridan's Sexual Assault and Sexual Violence Policy.

4. POLICY STATEMENT

Sheridan is committed to providing a work environment that is free from Workplace Harassment and Discrimination, including behaviours that contribute to a Poisoned Environment, and that is supportive of the dignity and fair treatment of its Employees. Sheridan seeks to maintain a climate of mutual respect that allows equal opportunity for each person to contribute fully to the development and wellbeing of the Sheridan community.

Sheridan will not tolerate any form of Harassment or Discrimination as defined in this Policy, the *Code* or the *Occupational Health and Safety Act (OHSA)*.

In the event that Workplace Harassment or Discrimination is alleged, every effort will be made to work with the individuals involved to find a fair, reasonable, and timely resolution of the matter.

4.1. Guiding Principles

Sheridan recognizes its obligation to ensure that this *Policy* and related *Procedure(s)* are fair and applied fairly, and in doing so will ensure:

- Timely resolution;
- Procedural fairness;
- Education and training; and,
- Protection from Reprisal.

4.2. Other Avenues of Recourse

Nothing in this *Policy* is intended to prevent a Complainant from pursuing the processes of a collective agreement, the *Code*, the *OHSA*, or criminal prosecution.

⁵ Occupational Health and Safety Act (R.S.O. 1990, C. 0.1, Section 1[1])

A grievance pursuant to an applicable collective agreement may be investigated by the Centre for Equity and Inclusion (CEI).

4.3. Complaint Process and Investigations

- a) Employees have a duty to report the reasonable belief of the existence of a Poisoned Environment and/or any Incident of Workplace Harassment or Discrimination. Sheridan will conduct an Investigation into reported Complaints and Incidents that is appropriate in the circumstances, which ensures procedural fairness and uses the standard of the Balance of Probabilities.
- b) A Complaint or Incident of Workplace Harassment, Discrimination or the existence of a Poisoned Environment may be brought forward under this *Policy* by any Sheridan employee. Please refer to the *Workplace Harassment and Discrimination Procedure* for the Complaint process. The CEI will conduct a Preliminary Assessment to determine whether the Complaint meets the threshold for Harassment or Discrimination under this *Policy*.
- c) Sheridan Employees are expected to participate fully in a Complaint resolution process. Failure of an Employee to participate fully may result in discipline up to and including termination.
- d) Respondents shall be provided with the details of the Complaint, and will have an opportunity to respond.
- e) Sheridan will inform the Complainant and Respondent (if they are an Employee), in writing, of the results of an Investigation and of any corrective action taken.

4.4. Right to Withdraw a Complaint

A Complainant has the right to withdraw a Complaint at any stage of the process. However, Sheridan may continue to act on the issue identified in the Complaint as required by this *Policy*, other Sheridan policies, or as otherwise required by law.

4.5. Unsubstantiated, Frivolous, or Bad-Faith Complaints

If an Employee, in good faith, discloses or files a Complaint that is not supported by evidence gathered during the Complaint resolution process, that Complaint will be unsubstantiated and therefore dismissed.

Complaints that are found following the Investigation to be frivolous, may result in disciplinary action, up to and including termination of employment, subject to any relevant collective agreements.

Any Employee found to have made a false, malicious or bad-faith Complaint, or for any other vexatious purpose, will be subject to disciplinary action up to and including termination of employment, subject to any relevant collective agreements.

4.6. Good Faith Disclosure and Prohibition Against Reprisal or Threat of Reprisal

Employees are encouraged to report in good faith the reasonable belief of the existence of a Poisoned Work Environment, and/or an incident or complaint of Workplace Harassment or Discrimination. Sheridan will not tolerate Reprisal against any Employee who, in good faith and on the basis of reasonable belief, makes a report or files a Complaint under this *Policy*.

Sheridan Employees who engage in Reprisal or threats of Reprisal may be disciplined up to and including termination of employment, subject to any relevant collective agreements.

4.7. Confidentiality

Sheridan respects and maintains the confidentiality of all persons, including the Complainant, Respondent, and Witnesses. Information provided by any party to a Complaint is treated as confidential, but may be shared as reasonably necessary to investigate the Complaint and/or as may be required by Sheridan policy and/or applicable law.

Information obtained about an Incident or Complaint of Workplace Harassment, Discrimination or the existence of a Poisoned Environment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the Incident or Complaint, or is otherwise required by law.⁶

5. THE RESPONSIBLE EXECUTIVE

Responsible Executive for this policy shall be the Vice-President, Human Resources and Equity.

The Centre for Equity and Inclusion shall be the Responsible Office and shall interpret and apply the policy and have responsibility to draft any associated procedures to be approved by the Responsible Executive.

⁶ Occupational Health and Safety Act (R.S.O. 1990, Section 32.0.6)

6. RELATED DOCUMENTATION (PROCEDURES / ADDITIONAL POLICIES / FORMS) (note: internal links will require log-in for access)

- [Accessibility Policy](#)
- [Code of Conduct](#)
- [Human Rights Code, R.S.O. 1990, c. H.19](#)
- [Occupational Health and Safety Act, RSO 1990, c. O.1](#)
- [Ontario Colleges of Applied Arts and Technology, Academic Employees Collective Agreement](#)
- [Ontario Colleges of Applied Arts and Technology, Support Staff Collective Agreement](#)
- [Sexual Assault and Sexual Violence Policy](#)
- [Sexual Assault and Sexual Violence Response Protocol](#)
- [Workplace Harassment and Discrimination Procedure](#)
- [Workplace Violence Policy](#)